

### **REMARKS**

Initially, Applicant notes that the amendments made by this paper are consistent with the proposals discussed over the phone with the Examiner on June 26, 2007, and which were addressed in a phone message left with the Examiner's Supervisor (John Miller) on June 26, 2007. As mentioned over the phone, Applicant is frankly surprised at the brevity and incompleteness of the Office Action at this stage of prosecution, particularly considering that this is the first action following the reopening of prosecution after the filing of an Appeal Brief.

As mentioned above, the most recent Office Action, mailed April 16, 2007, is the first action following the reopening of prosecution after the filing of the Appeal Brief. In this Office Action, all of the pending claims 3-8, 13-15, 27-30, 37-41, 43-47, 49-76 and 78 were summarily rejected under 35 U.S.C. § 112, first paragraph, as purportedly failing to comply with the written description requirement. All of the claims were also summarily rejected under 35 U.S.C. § 103(a) as being unpatentable over Schein et al (6,388,714) in view of Klosterman (5,550,576) for purportedly the same reasons as set forth in Section 3 of the office action, dated 07/18/05.

#### **§112 REJECTIONS**

With specific regard to the §112 rejections, Applicant notes that the §112 rejection is unclear as to what elements of the claims are being rejected for 'failing to be described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention at the time the application was filed.' Reference is made to "an interactive television system simultaneously with a method for enabling a server to control the recording of television programs". However, the specification clearly supports these general claim elements throughout the specification, including paragraphs 24, 25, 34, 130-147 and 151-155. Accordingly, it does not initially appear that the Examiner is referring to these elements.

The Examiner also refers to the "computer program product" claim element in the §112 rejection. However, it is unclear how this claim element could be the sole basis for the §112 rejection to all of the claims, particularly claims 3-8, 13-15, 27-30, 37-41, 43-47, 49, 64-76 and 78, since claims 50-63 are the only claims that even recite the term "computer program product."

Furthermore, it unclear why this element would be the basis of rejecting any of the claims under §112 as is believed that the computer program product claims are clearly supported and enabled by the original Specification in such a way as to convey to those of ordinary skill in the art

that the inventors had possession of the claimed invention at the time of the invention. This is particularly true when considering that the Specification includes the originally filed claims and that the originally filed claims provide explicit support for computer program products. The Specification also clearly talks about the use of the CPU and other means for implementing the methods of the invention. This disclosure, when read in the context of the Specification (including the originally filed claims) would clearly suggest and convey to those of skill in the art, at the time of the invention, that the inventors had possession of the claimed invention, including the recited computer program products for implementing the claimed methods for enabling a server to control the recording of television programs at an interactive television system.

In view of the foregoing, it is unclear why any of the claims are being rejected under §112, and particularly why ALL of the claims are being rejected under §112. Accordingly, to the extent that the Examiner continues to reject any or all of the claims under §112, the Applicant respectfully requests that the Examiner provide specific reference to the particular claim elements in EACH of the rejected claims that are purportedly unsupported by the specification to such a degree that they would not convey to one of skill in the relevant art, at the time of the invention, that the inventors had possession of the claimed invention.

#### §103 REJECTIONS

Next, it will be noted that all of the claims were also summarily rejected under 35 U.S.C. §103 in view of Schein and Klosterman "for the same reasons as set forth in Section 3 of the previous office action, dated 7/18/05. However, this referenced office action dated 7/18/05 addressed a version of claims that is different than the version of claims that is currently pending. In particular, it will be noted that subsequent to the referenced office action of 7/18/05 the Applicant filed Amendment G on 08/30/05 in which each of the independent claims was amended and in which new claims were even added. The Amendment filed on 2/17/06 even further amended some of the claims. Accordingly, it is clear that the §103 rejection is clearly inadequate and insufficient as a sole basis for summarily rejecting the currently pending claims. In particular, by merely referencing the office action dated 7/18/05 as the sole ground for rejecting the current claims, the Examiner has failed to consider or appreciate the limitations present in the amendments made to the claims as well as the limitations present in the claims that were newly presented following that rejection. In failing to consider these limitations or even assert that these limitations are present in the cited art, the

Examiner has failed to establish a prima facie case of obviousness. Accordingly, the §103 rejections are moot and should be withdrawn.

IDS ISSUES

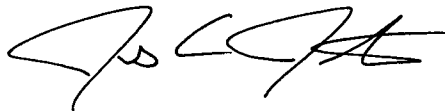
Finally, it will be noted that the Information Disclosure Statements filed on 08/30/2006 and 11/06/2006 were not signed off on. Copies of these IDS were included in the latest Office Action dated 04/16/2007, however, these IDS copies were crossed off as though they were not considered by the Examiner. Accordingly, Applicant respectfully requests (1) that the Examiner either indicate that the markings on the IDS copies indicates they were considered by the Examiner or (2) that the Examiner consider and sign off the references provided in the IDS references. Alternatively, if for any reason there was an error in the manner in which the IDS's were submitted, Applicant respectfully request that the Examiner identify the error so that it can be corrected.

In view of the foregoing, Applicant respectfully submits that all of the rejections to the claims are now moot and that the claims are in condition for immediate allowance. This is particularly true in view of the extended prosecution of the case and the thorough examination provided by the Examiner.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 16<sup>th</sup> day of July, 2007.

Respectfully submitted,



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